IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2477 OF 2005

Marathi Mission .. Petitioner

V/s

The Charity Commissioner & Ors. .. Respondents

Mr.S.M. Kamble for the Petitioner.

Mr.R.M. Patne, A.G.P. for Respondents No.1 to 3.

Mrs.G,K. Jadhav for Respondent No.4.

Mrs. Amita Kuthikrushnan i/b Mr.S.D. Khot for Respondent No.5.

CORAM : D.G. KARNIK, J.

DATE : 24TH APRIL 2007

P.C. :

1. Heard the learned counsel for the parties.

2. By this petition, the Petitioner impugns the order dated 31st August 2004 passed by the 1st Respondent - the Charity Commissioner refusing permission to the Petitioner to develop the property in question.

3. It appears that there are disputes between the

Petitioner Trust and the Respondent No.4 Trust regarding ownership of the property in question. Both of them claim to be the owners. The Respondent No.4 had previously made an application for permission to develop the said property under Section 36 of the Bombay Public Trust Act which was granted. In view of the fact that the Charity Commissioner has already granted permission to the Respondent No.4 for development of the property on the ground that the property belongs to the Respondent No.4, the Charity Commissioner could not again have granted permission to the Petitioner to develop the property. It was for this reason that the Charity Commissioner rejected the application filed by the Petitioner Trust.

4. Learned counsel for the Respondent No.4 states that in pursuance of the permission granted by the Charity Commissioner, the Respondent No.4 has already developed the property through a developer and constructed a building which has been handed over to the Petitioner Trust for running a school. Learned counsel for the Petitioner submits that a building has been constructed, but says that he has no instructions as to whether the possession of the building has been handed over to the Petitioner Trust. In any event, since the property has already been developed, there is no

question of granting any further permission for its development to the Petitioner Trust. The petition has become infructuous in view of the subsequent events.

5. The petition is rejected summarily.

(D.G. KARNIK, J.)